IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2366 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAMGOPAL N PRAJAPATI

Versus

RECRUITING OFFICER

Appearance:

MR Sunil Mehta, for Mr. SK BUKHARI for Petitioner.

MR ASIM J PANDYA for Respondent No. 1-2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 19/04/2002

ORAL JUDGEMENT

The petitioner, in this petition under Article 226 of the Constitution of India, has challenged the action of respondent No.2 in terminating the services of the petitioner orally and prayed for reinstatement of the petitioner on original post with all consequential benefits.

2. The petitioner has submitted in the petition that he has passed his SSC examination in the year 1984. However, the petitioner has passed the said examination without English subject. Thereafter, pursuant to the advertisement issued by the respondent No.1 for the post of 'Sipoy' in the Army the petitioner appeared for interview test amongst others in April 1986 at Ahmedabad and since the petitioner has successfully passed all the three tests, namely, physical, medical and written, the petitioner was appointed as 'Sipoy' on 12-4-1986 at 3 E.M.E. Centre, Bhopal. The petitioner has thereafter passed several categories of training successfully and certificates were also issued in his favour by the respondent authorities. The petitioner has further submitted that he has discharged his duties satisfactorily and efficiently and no grievance was ever made against him by superior officers.

3. The petitioner has further submitted that when he was appointed as Sipoy in the Army the 'English' subject was not compulsory in the SSC examination. However, after joining the services, there was a Circular issued by the competent authority stating therein that every candidate should have passed SSC with English language and therefore the petitioner was also asked to pass English subject in SSC examination. The petitioner accordingly appeared in English examination at Ahmedabad in October 1991 and successfully passed the said examination as per the result declared on 13th November 1991. The petitioner has submitted that as per the requirement the petitioner was to clear English in SSC examination on or about 13th of November 1991 and the result of October 1991 SSC examination was declared much thereafter and hence without waiting for the result of the English subject in the SSC examination of the petitioner, the respondent No.2 has discharged the petitioner orally with effect from 13.11.1991. However, no order of discharge in writing was served on the petitioner.

4. The petitioner's main grievance in the petition was that he has complied with all the terms and conditions of the employment and even the SSC examination with English subject was cleared by him subsequent to his joining as Sipoy in the Army, there was nothing contrary against him in his entire service record, and there was no justification on the part of the respondent authorities to discharge the petitioner from his service as Sipoy in the Army. The petitioner therefore submitted that the action of the respondent authorities in discharging the petitioner from his service without

assigning any reason and without passing any order is ex facie illegal, bad, without authority in law and hence it is required to be quashed and set aside.

5. I have heard Mr. Sunil Mehta, appearing on behalf of Mr. S.K. Bukhari, ld. advocate for the petitioner. No one appears on behalf of the respondents. I have gone through all the contentions raised by the petitioner in the petition and submissions made by the learned advocate appearing for the petitioner. I am, however, of the view that the petitioner has not produced the relevant details so far as his appointment as Sipoy in the Army is concerned. No appointment order is produced on record nor any Circular is produced under which the petitioner was asked to clear English subject in the SSC examination. The petitioner has also not produced the termination order though it was mentioned by him that it was never issued by the respondent authorities. However, a certificate of service is produced at Annexure 'F' in which it can be seen that the date of discharge of the petitioner was 13.11.1991. On the basis of this certificate, it cannot be presumed that the petitioner was discharged from service because of not clearing the English subject in SSC examination on or about 13.11.1991. In absence of any requisite details, such as appointment order, Circular laying down requirement of passing SSC examination with English subject, service conditions etc., this Court does not think it proper to interfere in the matter by exercising its extraordinary jurisdiction under Article 226 of the Constitution of India. It is more so when no relief was granted by this Court at the time when this petition was admitted, and since the petitioner is out of job from 13.11.1991 as alleged and since no ground is made out by the petitioner to seek relief of reinstatement in service with the respondent authorities, this Court is not inclined to grant any relief in this petition. The petition, therefore, fails. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]